



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Division of Health Care Finance and Policy
Two Boylston Street
Boston, MA 02116*

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

617-988-3100 • Fax 617-727-7662 • TTY 617-988-3175
www.mass.gov/dhcfp

JUDYANN BIGBY, M.D.
Secretary

SARAH ISELIN
Commissioner

**Administrative Bulletin
Employer Fair Share Contribution Requirements
114.5 CMR 16.00**

The purpose of this bulletin is to clarify several issues with respect to the secondary test to determine employer liability for the Fair Share Contribution. On September 14, 2007, the Division issued an Administrative Bulletin providing clarification about the Fair Share requirements for Multiemployer Health Benefit Plans and employee health benefits provided pursuant to a federal contract. The Division's Administrative Bulletin clarified these two issues in connection with the primary test of the Fair Share Contribution requirement but was silent with respect to the secondary test of that requirement.

For purposes of compliance with the secondary test, under which an employer must offer to pay at least 33% toward the cost of an individual health plan for all full time employees, employers that contribute to a multiemployer health plan or make contributions pursuant to federal contract requirements shall complete the Fair Share Contribution Filing Form as follows:

- If an employer that contributes to an employer sponsored group health plan also contributes to a multiemployer health plan pursuant to a collective bargaining agreement, or makes contributions pursuant to federal contract requirements, the employer shall complete the secondary test information based on the employer's percentage contribution to the employer sponsored health plan.
- If an employer contributes only to a multiemployer plan that is not related to a collective bargaining agreement or to a federal contract, and if the employer makes different percentage contributions for different employee groups, the employer shall report the lowest premium percentage contribution for purposes of the secondary test.
- If an employer that contributes to an employer sponsored group health plan also contributes to a multiemployer plan that is not related to a collective bargaining agreement or to a federal contract, the employer shall report the lowest premium percentage contribution for purposes of the secondary test.

An employer will pass the secondary test only if the percentage contribution required to be reported under these scenarios is greater than or equal to 33%.